REMARKS

The present application has been reviewed in light of the Office Action dated October 17, 2008. Claims 28, 43, 46, 48, and 49 are presented for examination, of which Claim 28 is in independent form. Favorable reconsideration is requested.

Applicants gratefully acknowledge the indication that Claims 43, 46, 48, and 49 include allowable subject matter, and would be allowable if rewritten in proper independent form. For the reasons presented below, Applicants respectfully decline to so rewrite these claims at the present time.

The Office Action states that Claim 28 is rejected on the ground of obviousness-type double patenting in view of Claim 1 of U.S. Patent No. 7,002,964 (*Ohnishi et al.*). Applicants respectfully traverse this rejection and submit that Claim 28 is patentably distinct from Claim 1 of *Ohnishi et al.*, for the following reasons.

Claim 28 is directed to a data communication apparatus that transfers object data to a destination node. A notable feature of Claim 28 is that the data communication apparatus includes a control unit adapted to: (a) determine a segment size and a segment data size in accordance with a size of a receiving buffer of the destination node, the size of the receiving buffer being determined by the destination node in accordance with a maximum payload size that can be received by the destination node, (b) divide the object data into segments in accordance with the segment size, and (c) divide each segment into a plurality of segment data in accordance with the segment data size so as to generate transfer packets from the plurality of segment data.

Claim 1 of *Ohnishi et al.* is directed to a communication system. The communication system includes: (1) a source node; (2) one or more destination nodes; and (3) a controller adapted to set a logical connection between the source node and the one or more destination nodes. The controller is adapted to notify the source node and the one or more destination nodes of first information representing the logical connection and second information that is unique to the controller. The source node is adapted to divide data to be transmitted to the one or more destination nodes into a plurality of segment data, and transfer each of the segment data with the first and second information obtained from the controller to the one or more destination nodes. Each of the one or more destination nodes includes a receiving buffer, and is adapted to store each segment data in the receiving buffer.

The communication system of Claim 1 of *Ohnishi et al.*, however, does not "determine a segment size and a segment data size in accordance with a size of a receiving buffer of the destination node, the size of the receiving buffer being determined by the destination node in accordance with a maximum payload size that can be received by the destination node," as recited in Claim 28. Applicants, therefore, submit that Claim 28 is non-obviously and patentably distinct from Claim 1 of *Ohnishi et al.* Accordingly, Applicants respectfully request withdrawal of the obviousness-type double patenting rejection of Claim 28 in view of Claim 1 of *Ohnishi et al.*

No petition to extend the time for response to the Office Action is deemed necessary for this Amendment. If, however, such a petition is required to make this Amendment timely filed, then this paper should be considered such a petition and the

Commissioner is authorized to charge the requisite petition fee to Deposit Account 06-1205.

In view of the foregoing remarks, Applicants respectfully request favorable reconsideration and an early passage to issue of the present application.

Applicants' undersigned attorney may be reached in our New York Office by telephone at (212) 218-2100. All correspondence should continue to be directed to our address listed below.

Respectfully submitted,

/Lock See Yu-Jahnes/
Lock See Yu-Jahnes
Attorney for Applicants
Registration No. 38,667

FITZPATRICK, CELLA, HARPER & SCINTO
30 Rockefeller Plaza
New York, New York 10112-3801
Facsimile: (212) 218-2200

FCHS_WS 2621108_1